

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

ALEC TABAK,

Plaintiff,

- *against* -

3DR HOLDINGS, LLC,

Defendant.

Case No. 1:18-cv-10772 (PAE)

ALAN MECKLER deposes and states as follows:

1. I am a Managing Member of 3DR Holdings, LLC (“3DR”), the corporate defendant in the above-captioned action.

2. I submit this affidavit based on my personal knowledge of the facts and circumstances stated herein, and in support of 3DR’s partial motion to dismiss plaintiff Alec Tabak’s (“Plaintiff”) Complaint (“Complaint”) pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure.

3. On or about December 14, 2017, 3DR owned and operated the website located at the URL www.insidebitcoins.com (the “Inside Bitcoins Website”).

4. Primarily, the Inside Bitcoins Website republishes articles featured on other websites of interest to its readers using automated content aggregation software without any human intervention (the “Automated Aggregation Software”), which draws material from broad websites, providing the Inside Bitcoins Website’s readers with the benefit of collecting most of the reporting on a particular topic in one place.

5. When articles are republished on the Inside Bitcoins Website via the Automated Aggregation Software, they appear on the Inside Bitcoins Website exactly as they appeared on the article they are sourced from. The Automated Aggregation Software does not remove any text or images.

6. 3DR personnel are in no way involved in the selection or republication of any of the articles that are republished on the Inside Bitcoins Website by the Automated Aggregation Software.

7. On December 14, 2017, the Automated Aggregation Software republished an article on the Inside Bitcoins Website that originally appeared on the website located at the URL www.bitcoinist.com (the “Bitcoinist Article”), which I believe to be a Hungarian-based website.

8. 3DR is not affiliated with Bitcoinist, and has no knowledge of whether Bitcoinist licensed any photographs from Plaintiff.

9. All text and images from the Bitcoinist Article were published on the Inside Bitcoins Website *exactly as they appeared* in the Bitcoinist Article.

10. I first learned of the use of the photograph at issue in this lawsuit on the Inside Bitcoins version of the Bitcoinist Article when Plaintiff filed the Complaint on November 18, 2018.

11. Approximately 37 internet users viewed the Inside Bitcoins version of the Bitcoinist Article in a one-year period.

12. These statements are accurate now and were accurate at the time the Complaint was filed.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Executed on February 6, 2019 in the United States.



ALAN MECKLER